
**Agriculture & Natural Resources
Committee**

SSB 5678

Brief Description: Regarding the use of milk products for animal food consumption.

Sponsors: Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senator Hatfield).

Brief Summary of Substitute Bill

- Modifies various provisions of the state Milk and Milk Products for Animal Food Act.

Hearing Date: 3/20/09

Staff: Anna Jackson (786-7190)

Background:

Milk and Milk Products for Animal Food Act.

The Milk and Milk Products for Animal Food Act (Milk for Animal Consumption Act) establishes requirements for the sale of milk, cream, or skim milk (Milk Products) as food for animals. The Director of the Washington State Department of Agriculture (Director) has the authority to enforce the Milk for Animal Consumption Act and to adopt rules that are necessary to carry out its purpose [RCW 15.37.020].

In order to sell, advertise, or trade Milk Products as food for animals that do not meet certain conditions required for Grade A milk for humans, a person must obtain an annual license from the Director for \$25 [RCW 15.37.030, .050]. If the Milk Products for animal food are sold in containers holding less than five gallons, they must be de-characterized with harmless food coloring and labeled "not for human consumption" [RCW 15.37.110].

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Director or the Director's designee has the authority to enter, during reasonable business hours, any premises where Milk Products for animal food are produced, handled, distributed, sold, or used for the inducement of the sale of another product to determine whether the Milk Products have been properly de-characterized. It is unlawful for a person to interfere with the Director while the Director is performing the duties imposed by the Milk for Animal Consumption Act or rules adopted under it, and the Director may bring an action to enjoin a violation of the act or any rule adopted under it in Thurston County Superior Court [RCW 15.37.120, .130].

Milk and Milk Products Act.

The Milk and Milk Products Act (Milk for Human Consumption Act) governs the sale of milk and milk products for human consumption. Every milk producer is required to obtain a Milk Producer's License from the Director, and every milk processing plant is required to obtain a Milk Processing Plant License [RCW 15.36.041, .051]. "Milk processing" is defined as the handling, preparing, packaging, or processing of milk in any manner in preparation for its sale as food. It does not include milking or producing milk on a dairy farm that is shipped to a milk processing plant for further processing. A "milk processing plant" is defined as any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, bottled, pasteurized, bottled, or prepared for distribution but does not include establishments that merely receive processed milk products and serve them or sell them at retail [RCW 15.36.012]. A person who violates a provision of the Milk for Human Consumption Act may be fined a civil penalty up to \$1,000 per violation per day [RCW 15.36.473].

Commercial Feed.

"Commercial feed" is defined as all materials distributed as feed or for mixing in feed, unless such materials are specifically exempted [RCW 15.53.901]. Subject to certain exemptions, any person who manufactures or distributes a commercial feed in Washington or whose name appears on a commercial feed label as a guarantor must obtain a Commercial Feed License from the Washington State Department of Agriculture [RCW 15.53.9013]. Any commercial feed distributed in Washington must also comply with certain labeling requirements, and holders of a Commercial Feed License must file a semiannual report listing, among other requirements, the number of tons of commercial feed distributed in the state [RCW 15.53.9018].

Summary of Bill:

Licensing and Other Requirements.

The requirement is added that applicants for a license to sell Milk Products for animal food must possess either a current Milk Producer's License or Milk Processing Plant License, as required under the Milk for Human Consumption Act. All license fees collected under the Milk for Animal Consumption Act must be deposited into the state Dairy Inspection Account.

The Director is required to adopt rules establishing standards and requirements for Milk Products sold for animal food. These requirements may include provisions related to recordkeeping, testing, handling, and processing to ensure safety of the product.

Milk Products for animal food that are sold in Washington and meet the requirements of the Milk for Animal Consumption Act are exempt from requirements applicable to commercial feed. Milk Products for animal food that are sold outside of Washington, however, are not exempt

from commercial feed requirements. Accordingly, the definition of "commercial feed" is amended to clarify that Milk Products for animal food sold in Washington are not commercial feed.

Entry Onto Premises, Inspection, and Sampling.

The Director is authorized to enter any premises, during reasonable business hours, where Milk Products for animal food are produced, handled, distributed, sold, held for sale, or used for the inducement of the sale of another product in order to inspect the facility, equipment, and product to determine whether the requirements pertaining to milk products sold for animal food consumption are met. The Director may take samples of any Milk Product or water or environmental samples for laboratory analysis. In addition, the Director may access records, including customer lists, milk production records, temperature records, and inspection and test records.

If the Director is denied access to any premises where Milk Products for animal food are produced, handled, distributed, sold, held for sale, or used for the inducement of the sale of another product, the Director may apply to a court of competent jurisdiction for a search warrant authorizing access to the premises for the purpose of conducting inspections, collecting samples, and examining records. The Director must file a declaration with the court to show that he or she was denied access to the premises in question, and the declaration must contain a description of the Director's attempts to notify and locate the owner or the owner's agent and to secure consent from the owner.

Enforcement and Penalties.

A person who violates any provision of the Milk for Animal Consumption Act is subject to its enforcement provisions, as well as those contained in the Milk for Human Consumption Act.

The provision specifying that it is a misdemeanor for a person to violate the provisions of the Milk for Animal Consumption Act is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.